

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: David Foster	Team: Team # 5	CCRB Case #: 200615868	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/22/2006 4:48 AM	Location of Incident: 900 Sheffield Avenue; inside the 75th Precinct stationhouse	Precinct: 75	18 Mo. SOL 5/22/2008	EO SOL 5/22/2008	
Date/Time CV Reported Wed, 11/22/2006 4:48 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/28/2006 1:26 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Bilal Ates	30040	934429	075 PCT
2. POM Jason Sharp	16369	935731	075 PCT
3. Officers			

Officer(s)	Allegation	Investigator Recommendation
A.POM Jason Sharp	Force: In front of 900 Sheffield Avenue in Brooklyn, Police Officer Jason Sharp used physical force against § 87(2)(b)	
B.POM Bilal Ates	Force: In front of 900 Sheffield Avenue in Brooklyn, Police Officer Bilal Ates used physical force against § 87(2)(b)	
C.POM Bilal Ates	Abuse: In front of 900 Sheffield Avenue in Brooklyn, Police Officer Bilal Ates threatened § 87(2)(b) with the use of force.	
D. Officers	Force: Inside the 75th Precinct stationhouse, officers used physical force against § 87(2)(b)	

Synopsis

On November 22, 2006, at approximately 4:00 a.m., § 87(2)(b) was ejected from Elite Arc, a nightclub located at 900 Sheffield Avenue in Brooklyn, after an altercation with an unidentified female. In front of the nightclub, two officers, identified through investigation as PO Jason Sharp and PO Bilal Ates, pushed § 87(2)(b) and told him to leave (**allegations A and B**). § 87(2)(b) walked around the corner and PO Ates followed him, slammed him into a parked car, threw him to the ground, and said, "I'll kill you" (**allegation C**). PO Ates handcuffed § 87(2)(b) and PO Ates and PO Sharp transported him to the 75th Precinct stationhouse. Inside the stationhouse, unidentified officers threw § 87(2)(b) into a holding cell such that his face hit the ground (**allegation D**). § 87(2)(b) was taken by ambulance to § 87(2)(b), where he was treated for a broken nose.

On February 13, 2007, this case was reassigned from Investigator Phil Weitzman to Investigator David Foster due to Investigator Weitzman's resignation from the investigative staff. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Summary of Complaint

§ 87(2)(b)

On November 22, 2006, § 87(2)(b) filed this complaint with the Internal Affairs Bureau (encl. 3a-b), where it was assigned Log Number § 87(2)(b). On November 22, 2006, § 87(2)(b) was also interviewed by IAB (encl. 4a-d) and provided statements to medical personnel (encl. 5a-c). On November 28, 2006, IAB referred this complaint to the CCRB (encl. 6a-b). On February 13, 2007, § 87(2)(b) filed a Notice of Claim against the City of New York related to this incident (encl. 7a-c). On March 6, 2007, § 87(2)(b) was interviewed by the CCRB (encl. 8a-e). § 87(2)(g)

§ 87(2)(b) a § 87(2)(b)-old black male, is 5'11" tall and weighs 170 pounds. On November 22, 2006, at approximately 2:00 a.m., § 87(2)(b) went to the Elite Arc Club, where he goes every Tuesday night. At the club, § 87(2)(b) had one drink of White Rum, but the single drink did not affect him and he was not intoxicated. At approximately 4:00 a.m., § 87(2)(b) threw a twenty-dollar bill at an unidentified female he had not previously met, and she slapped him on his cheek. Two unidentified security guards, one male and one female, approached § 87(2)(b) and escorted him out of the club. In his CCRB interview, § 87(2)(b) stated that the female security guard struck the right side of his head with a closed fist, but denied that the blow caused any injury. In his IAB interview, § 87(2)(b) stated that the female security guard struck him on his neck, not his head. § 87(2)(b) initially stated to IAB that he was injured prior to interacting with police officers outside the club, then stated that he was not injured during the altercation with security guards.

At the front entrance to the club, § 87(2)(b) walked out on his own when the guards asked him to leave. In his interview, § 87(2)(b) stated that the guards held their arms out at the door to prevent him from re-entering the club, but denied making any attempt to re-enter the club. At this point, § 87(2)(b) was still asking why the female security guard had hit him "for no reason." Two uniformed officers, identified through investigation as PO Jason Sharp and PO Bilal Ates, one white male plainclothes officer, and one black male plainclothes officer were present outside the club. PO Sharp, PO Ates, and the white male plainclothes officer approached § 87(2)(b). The officers did not say anything as they approached § 87(2)(b) who was still facing the door to the club. § 87(2)(b) felt four hands push him on his back, causing him to move approximately one and a half feet. The three officers told § 87(2)(b) "Leave. Get out of here." § 87(2)(b) asked the officers why they were pushing him, then walked away. The officers did not give § 87(2)(b) any further instructions. As § 87(2)(b) walked away, he said, "Fuck this. Fuck y'all." The officers did not respond.

When § 87(2)(b) turned the corner, which was approximately ten to fifteen feet away from the door to the nightclub, an officer, identified through investigation as PO Ates, approached him again without saying anything. No other officers were with PO Ates, and the other officers were not visible from around the corner. PO Ates grabbed § 87(2)(b) by both of his biceps, and § 87(2)(b) looked back to see him. § 87(2)(b) did

not physically respond beyond looking back at PO Ates. PO Ates pushed § 87(2)(b) a distance of two to three feet, then pulled him up off his feet and slammed him two to three times into a Jeep Cherokee parked in a parking area used by the club. In his CCRB interview, § 87(2)(b) stated that his face and chest hit the side of the Cherokee and that he could feel his nose break as his head hit the car. In his statements to IAB and medical personnel, § 87(2)(b) stated that his face hit the hood of the Cherokee. PO Ates handcuffed § 87(2)(b) while he was still against the Cherokee. PO Ates then turned § 87(2)(b) around and, in the same motion, threw him to the ground. § 87(2)(b)'s back and the back of his head hit the ground first. PO Ates grabbed § 87(2)(b) by his shirt, shook him, and said, "I'll kill you." § 87(2)(b) screamed, but did not respond in any other way.

An officer, identified through investigation as PO Sharp, drove the marked car around the corner while § 87(2)(b) was lying on the ground in handcuffs. PO Ates pulled § 87(2)(b) up by his handcuffs and pants and threw § 87(2)(b) into the patrol car. PO Sharp was inside the patrol car at this point. PO Ates and PO Sharp drove § 87(2)(b) to the 75th Precinct stationhouse. At the stationhouse, unidentified officers picked § 87(2)(b) up and threw him into the holding cell such that his mouth hit the ground. § 87(2)(b) was not able to describe these officers, but stated that PO Ates and PO Sharp were present at the stationhouse. § 87(2)(b) was taken by ambulance to § 87(2)(b). PO Sharp traveled with him in the ambulance. § 87(2)(b)'s nose was broken and he also suffered a concussion as a result of the incident. § 87(2)(b) was not injured in any way as a result of his altercation with the unidentified young woman in the club or the female bouncer.

Results of Investigation

Civilian Witnesses

§ 87(2)(b)
On November 22, 2006, § 87(2)(b) provided a telephone statement to IAB (encl. 9a-b). On March 19, 2007, § 87(2)(b) provided a telephone statement to the CCRB (encl. 10). § 87(2)(b) § 87(2)(b) - old black male, § 87(2)(b) § 87(2)(g)
§ 87(2)(b)

On May 24, 2007, the CCRB received a tape recording of § 87(2)(b)'s IAB statement. § 87(2)(g)
§ 87(2)(b). In his statement to IAB, § 87(2)(b) stated that § 87(2)(b)'s altercation with the unidentified female patron of the Elite Arc began when he argued with her and pulled on her. § 87(2)(b) was highly intoxicated at this point. In response, the unidentified female punched § 87(2)(b) on his mouth and nose, causing him to bleed. § 87(2)(b) alone escorted § 87(2)(b) out of the club while other security guards watched. § 87(2)(b) could not remember the names of these security guards because multiple guards were present. § 87(2)(b) repeatedly attempted to re-enter the club, but was not permitted to do so. Officers from a marked patrol car, identified through investigation as PO Jason Sharp and PO Bilal Ates, instructed § 87(2)(b) to leave. In response, he said, "Fuck you, police. Fuck that." The officers pushed § 87(2)(b) and continued to instruct him to leave. § 87(2)(b) did not see officers effect § 87(2)(b)'s arrest and was not able to provide any contact information for the female with whom § 87(2)(b) had the altercation.

In his telephone statement to the CCRB, § 87(2)(b) described an incident in which an unidentified male became engaged in a physical altercation with another male inside the club. § 87(2)(b) and six to seven other security guards escorted the male outside, where two officers told him to leave, then escorted him down the block. § 87(2)(b) stated that the male was not injured as a result of his altercation inside the nightclub.

Police Officer Statements

PO Jason Sharp (75th Precinct), Subject Officer

PO Sharp made several memo book entries related to this incident (encl. 11a-c). At 3:30 a.m., PO Sharp noted that he observed one black male arguing and being "disorderly" in front of 900 Sheffield Avenue. The male resisted arrest and fought with PO Sharp and PO Ates, causing injuries to PO Ates. PO Sharp

completed an Aided Report (encl. 13a-e) for PO Ates. In the Aided Report, PO Sharp stated that PO Ates suffered redness to his shin after § 87(2)(b) kicked him.

PO Sharp completed § 87(2)(b)'s arrest paperwork (encl. 12a-d). § 87(2)(b) was charged with § 87(2)(b). According to the narrative on the arrest report, § 87(2)(b) was "fighting in the street" and "did kick and punch" PO Sharp and PO Ates.

On April 18, 2007, PO Sharp was interviewed at the CCRB (encl. 14a-b). PO Sharp, a § 87(2)(b)-old white male, is 5'6" tall and weighs 200 pounds. PO Sharp is bald and has green eyes. PO Sharp's tour of duty related to this incident lasted from 9:30 p.m. on November 21, 2006, until 6:05 a.m. on November 22, 2006. PO Sharp's partner was PO Ates, and the officers worked a Conditions assignment in uniform. The officers used a marked police vehicle.

At the time of the incident, PO Sharp and PO Ates were in a patrol car in front of the doors to 900 Sheffield Avenue, a nightclub. No other officers were present at the time. PO Sharp stated that this nightclub has chronic problems with police incidents. PO Sharp saw a black male, whom he identified as § 87(2)(b) being ejected from the club by four to five security guards. Over ten other civilians were standing outside the nightclub. § 87(2)(b) was yelling, "Why are you kicking me out? She's the one who punched me." § 87(2)(b) was bleeding from the nose. At the time, PO Sharp did not know who § 87(2)(b) was referring to with his statement about a female having punched him. § 87(2)(b) pushed the security guards as he argued with them about leaving the club. A crowd of four to five people began to form around § 87(2)(b). The people were merely watching the events.

PO Sharp and PO Ates approached § 87(2)(b). PO Sharp noted that § 87(2)(b)'s eyes were red, but could not tell if this resulted from intoxication or an injury. One of the officers asked § 87(2)(b) what was happening, and he stated that a girl inside the club had punched him. PO Sharp asked § 87(2)(b) if he needed any medical attention. At this point, § 87(2)(b) became "belligerent" and told the officers, "Suck my dick." PO Sharp instructed § 87(2)(b) to leave and he took several steps toward the corner. PO Sharp and PO Ates then turned to the security guards to ask them about what had happened in an effort to identify the female who had punched § 87(2)(b). The security guards did not provide the officers with any information. § 87(2)(b) turned around and yelled, "Fuck you, cops," among other profanities. PO Sharp and PO Ates informed § 87(2)(b) that he was under arrest. PO Sharp was between one and two feet away from § 87(2)(b) at this point. § 87(2)(b) swung a closed fist toward PO Ates's face, but did not make contact with PO Ates's face. PO Sharp grabbed § 87(2)(b)'s shoulder and arm. PO Ates also grabbed § 87(2)(b) but PO Sharp could not say where. § 87(2)(b) continued to struggle by kicking his legs. The kicks did not make contact with PO Sharp but did hit PO Ates. During the course of the struggle, PO Sharp, PO Ates, and § 87(2)(b) fell to the ground. All three fell to the ground at the same time, with § 87(2)(b) on the bottom. § 87(2)(b) continued to resist on the ground by holding his arms under his body. PO Sharp was near the top of § 87(2)(b)'s legs. § 87(2)(b) attempted to kick PO Sharp. The officers managed to handcuff § 87(2)(b) by pulling his arms out from under him. PO Sharp and PO Ates led § 87(2)(b) to the patrol car, which was between 15 and 20 feet away, near the corner but still in view of the door to the nightclub. Inside the patrol car, § 87(2)(b) attempted to kick out the right passenger's-side window. Once the vehicle started moving, § 87(2)(b) became calmer. At some point, four to five unidentified plainclothes officers responded to the incident. These officers did not, however, participate in the struggle to handcuff § 87(2)(b). PO Sharp could not identify any of these officers. During the struggle, PO Ates told § 87(2)(b) to stop resisting and PO Sharp told § 87(2)(b) to give him his arms, but neither officer said anything else to § 87(2)(b).

At the stationhouse, § 87(2)(b) continued to struggle by kicking as PO Sharp and PO Ates placed him in a holding cell. PO Sharp and PO Ates did not, however, throw § 87(2)(b) into the holding cell such that his mouth hit the ground. § 87(2)(b) complained that his nose was broken, and PO Sharp accompanied him from the stationhouse to Brookdale University Hospital. PO Sharp was not injured during the incident, but PO Ates suffered a bruised left shin. PO Sharp prepared an Aided Report for PO Ates. Aside from taking § 87(2)(b) to the hospital, PO Sharp did not at any point interact with § 87(2)(b) separately from PO Ates. PO Sharp did not see § 87(2)(b) hit any parked cars during the struggle. PO Sharp did not push § 87(2)(b) into a parked car and did not intentionally hit his head against a parked car.

PO Bilal Ates (75th Precinct), Subject Officer

PO Ates made several memo book entries related to this incident (encl. 15a-c). At 3:30 a.m., saw a black male arguing and being “disorderly” in front of 900 Sheffield Avenue. The male swung at and kicked the officers. At 3:48 a.m., the male was arrested, and at 6:00 a.m., he was taken to § 87(2)(b)

On April 25, 2007, PO Ates was interviewed at the CCRB (encl. 16a-b). PO Ates, a § 87(2)(b)-old white male, is 6’ tall and weighs 240 pounds. PO Ates’s tour of duty lasted from 9:30 p.m. on November 21, 2006, until 6:05 a.m. on November 22, 2006. PO Ates worked a Conditions assignment with PO Sharp.

§ 87(2)(g) PO Ates ducked to avoid being struck when § 87(2)(b) attempted to punch him. In the vicinity of the nightclub, neither PO Ates nor PO Sharp interacted with § 87(2)(b) out of sight of other officers. No officer took § 87(2)(b) around the corner and hit him against a vehicle. No officer said to § 87(2)(b) “I’ll kill you,” in the course of arresting him. On the way to the stationhouse, PO Ates learned that § 87(2)(b) had medical records on his person related to an eye injury he had sustained several days prior to the incident. § 87(2)(b) also had an eye patch, but was not wearing it. His right eye was red. § 87(2)(b) alleged that the officers had broken his nose and threatened to sue them in the patrol car on the way to the stationhouse.

When they arrived at the 75th Precinct stationhouse, PO Ates and PO Sharp notified IAB of § 87(2)(b)’s injuries. PO Ates and PO Sharp led § 87(2)(b) to a holding cell and sat him on a bench. § 87(2)(b) was still behaving in an “agitated” manner and kicked PO Ates in the left shin, but PO Ates and PO Sharp did not throw him into the holding cell such that his face hit the ground.

Medical Records

According to the Ambulance Call Report (encl. 17e-f), § 87(2)(b) was transported from the 75th Precinct stationhouse to the hospital at 5:38 a.m. on November 22, 2006. § 87(2)(b) complained of pain to his nose, which was swollen and bleeding. § 87(2)(b) was not complaining of any other injuries. On § 87(2)(b), § 87(2)(b) was admitted to § 87(2)(b) (encl. 17a-i). § 87(2)(b)’s chief complaint was that his nose was broken (encl. 17d). § 87(2)(b) admitted to consuming alcohol. At 6:50 a.m., § 87(2)(b) was diagnosed with a facial fracture and released with prescriptions for Motrin (600 mg) and Maalox (30 mg).

Medical records provided by the New York City Department of Correction are not pertinent to this incident, but are included in the “Do Not Copy” folder. § 87(2)(b) also stated that he obtained treatment for his injuries at § 87(2)(b) on § 87(2)(b). On April 24, 2007, the CCRB sent a subpoena for medical records to § 87(2)(b). As of the date on which this report was written, § 87(2)(b) had not provided § 87(2)(b)’s medical records. § 87(2)(g)

Notice of Claim

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim against the City of New York (encl. 7a-c). § 87(2)(b) alleged he suffered “psychological and physical distress” as a result of being “assaulted and battered, falsely arrested, and maliciously prosecuted” and claimed “a reasonable amount to compensate...for his injuries.”

Police Department Documents

Arrest Photographs

§ 87(2)(b)’s arrest photographs (encl. 8d) show no injuries aside from the existing injury to his eye.

75th Precinct Roll Call

The 75th Precinct roll call (encl. 18a) confirms that PO Sharp and PO Ates worked a Conditions assignment in patrol vehicle number 1624.

75th Precinct Command Log

According to the Command Log (encl. 18b), § 87(2)(b) arrived at the stationhouse at 4:04 a.m. and was taken to § 87(2)(b). In the “physical/mental condition” section of his arrest stamp, it is noted that § 87(2)(b) had alcohol on his breath. § 87(2)(b) was also described as “combative.”

Disposition of Criminal Charges

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

This is the first complaint § 87(2)(b) has filed with the CCRB (encl. 2c).

Police Officer CCRB History

PO Ates and PO Sharp both have two years of tenure and no previously substantiated CCRB complaints (encl. 2a-b).

Conclusions and Recommendations

Officer Identification

PO Sharp and PO Ates confirmed their roles in this incident. PO Ates matches the description § 87(2)(b) provided of the officer who slammed him into the parked Jeep.

Assessment of Evidence

§ 87(2)(g) § 87(2)(b) denied suffering any injuries as a result of his altercation with the unidentified female inside the Elite Arc club, whereas the officers stated that he was already injured when they first saw him, and § 87(2)(b) initially stated that the female caused § 87(2)(b)'s nose injury. § 87(2)(b) stated that unidentified plainclothes officers were present when he exited the nightclub, but PO Sharp and PO Ates agreed that these unidentified officers arrived while they were attempting to handcuff § 87(2)(b). § 87(2)(b) alleged that PO Ates alone led him around a corner and slammed him into a parked Jeep Cherokee, causing a fractured nose. PO Sharp and PO Ates denied that § 87(2)(b) was slammed into a parked car, and according to both officers' statements, they struggled with § 87(2)(b) together, not separately. § 87(2)(b) stated that he was thrown into a holding cell, but PO Sharp and PO Ates both denied that this occurred.

§ 87(2)(g) According to the statements of PO Sharp and PO Ates and § 87(2)(b)'s statement to IAB, § 87(2)(b) was intoxicated at the time of the incident. § 87(2)(g) he initially stated that PO Ates slammed him into the hood of the Cherokee, while he later stated that PO Ates slammed him into the side of the Cherokee. § 87(2)(g)

§ 87(2)(b) has filed a Notice of

Claim against the City of New York, § 87(2)(g)

§ 87(2)(g)

Note Regarding the Pleading of Allegations

§ 87(2)(g)

Recommended Dispositions

Allegation A: In front of 900 Sheffield Avenue in Brooklyn, Police Officer Jason Sharp used physical force against § 87(2)(b)

Allegation B: In front of 900 Sheffield Avenue in Brooklyn, Police Officer Bilal Ates used physical force against § 87(2)(b)

According to Patrol Guide Procedure 203-11 concerning the use of force, officers are justified in using “that amount of force necessary to overcome resistance” in effecting an arrest (encl. 1a). § 87(2)(g)

Allegation C: In front of 900 Sheffield Avenue in Brooklyn, Police Officer Bilal Ates threatened § 87(2)(b) with the use of force.

§ 87(2)(g)

Allegation D: Inside the 75th Precinct stationhouse, officers used physical force against § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: